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Paper No. 28

In re Application of
Toshiaki Kanemitsu *et al*
Application No. 09/157,318
Filed: September 21, 1998
For: Method of Manufacturing An
Annular Member Made From
A Metal sheet Having
A Peripheral Wall

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: DECISION ON PETITION
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This is a decision on the petition filed on December 5, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated September 17, 2002. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. Although a Notice of Abandonment was mailed on June 26, 2003, the petition is being treated as timely filed without the necessity for a terminal disclaimer. See 37 CFR 1.704(c)(4).

The petition is granted.

Petitioners allege that this application is not abandoned because a timely and proper reply to the Office letter in question, a final rejection, was in fact filed. Petitioners have supported this allegation by submitting a copy of the reply and a copy of a filing receipt for the reply that shows that it was received in the Office on December 17, 2002. The reply was proper because it was a Request for Continued Examination (RCE) filed under 37 CFR 1.114. The reply was timely because it included a request for an extension of time and authorized a charge for the extension fees. Based upon this showing, it is clear that this application is not abandoned. It is also noted that Office financial records show that the extension fee and the fee for the RCE have been charged. It is further noted that the amendment filed on December 17, 2002 with the RCE is of record in the application file and was the subject of an advisory action dated January 15, 2003.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications examiner for processing of the RCE filed on December 17, 2003. Thereafter the application will be forwarded to the examiner for action on the RCE.

PETITION GRANTED.

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